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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2009-1

14 JENNIFER ANN ROUCHLEAU AKA
JENNIFER ANN MILLER
15 5934 Orange Knoll Ave
San Bernardino, CA 92404
Registered Nurse License No. 545333

A C C U S A T I O N

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 (Board), Department of Consumer Affairs.

23 2. On or about July 14, 1998, the Board issued Registered Nurse License
24 Number 545333 to Jennifer Ann Rouchleau aka Jennifer Ann Miller (Respondent). The
25 Registered Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on June 30, 2010, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise
2 indicated.

3 STATUTORY PROVISIONS

4 4. Section 2750 of the Business and Professions Code (Code) provides, in
5 pertinent part, that the Board may discipline any licensee, including a licensee holding a
6 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
7 2750) of the Nursing Practice Act.

8 5. Section 2764 of the Code provides, in pertinent part, that the expiration of
9 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
10 against the licensee or to render a decision imposing discipline on the license. Under section
11 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
12 the expiration.

13 6. Section 2761 of the Code states:

14 “The board may take disciplinary action against a certified or licensed nurse or
15 deny an application for a certificate or license for any of the following:

16 “(a) Unprofessional conduct. . . .

17 “. . . .

18 “(d) Violating or attempting to violate, directly or indirectly, or assisting in or
19 abetting the violating of, or conspiring to violate any provision or term of this chapter [the
20 Nursing Practice Act] or regulations adopted pursuant to it.”

21 7. Section 2762 of the Code states:

22 “In addition to other acts constituting unprofessional conduct within the meaning
23 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
24 under this chapter to do any of the following:

25 “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
26 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
27 or administer to another, any controlled substance as defined in Division 10 (commencing with

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1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.

3 “(b) Use any controlled substance as defined in Division 10 (commencing with
4 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
5 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
6 injurious to himself or herself, any other person, or the public or to the extent that such use
7 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
8 license.”

9 8. Section 2770.11 of the Code states:

10 “(a) Each registered nurse who requests participation in a diversion program shall
11 agree to cooperate with the rehabilitation program designed by a committee. Any failure to
12 comply with the provisions of a rehabilitation program may result in termination of the registered
13 nurse’s participation in a program. The name and license number of a registered nurse who is
14 terminated for any reason, other than successful completion, shall be reported to the board’s
15 enforcement program.

16 (b) If a committee determines that a registered nurse, who is denied admission
17 into the program or terminated from the program, presents a threat to the public or his or her own
18 health and safety, the committee shall report the name and license number, along with a copy of
19 all diversion records for that registered nurse, to the board’s enforcement program. The board
20 may use any of the records it receives under this subdivision in any disciplinary proceeding.”

21 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
22 request the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

25 **CONTROLLED SUBSTANCE ”**

26 10. “Opiates” are defined by Health and Safety Code section 11020 as “any
27 substance having an addiction-forming or addiction-sustaining liability similar to morphine or

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1 being capable of conversion into a drug having additions-forming or addiction-sustaining
2 liability. . . .”

3 11. Vicodin is a trade name for the narcotic substance hydrocodone or
4 dihydrocodeinone with the non-narcotic substance acetaminophen (pain reliever and fever
5 reducer). Vicodin is a Schedule III controlled substance pursuant to Health and Safety Code
6 section 11056(e), and is a dangerous drug within the meaning of Business and Professions Code
7 section 4022.

8 12. Dilaudid is a trade name for Hydromorphone, an Opium derivative, which
9 is classified as a Schedule II Controlled Substance pursuant to Health and Safety Code section
10 11055, subdivision (b)(1)(k), and is a dangerous drug within the meaning of Business and
11 Professions Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Use of Controlled Substances)**

14 13. Respondent is subject to disciplinary action under Sections 2761,
15 subdivision (a), and 2762, subdivision (b), in that she used narcotics to an extent or in a manner
16 that was dangerous or harmful to herself or others, or to the extent that such use impaired her
17 ability to safely practice as a registered nurse. The circumstances are as follows:

18 a. Respondent admits that for approximately 4 months beginning in March
19 2004, while employed at Redlands Community Hospital as a registered nurse, she took wastes of
20 narcotics to use for herself approximately twice per week. On or about July 15, 2004,
21 respondent’s supervisor confronted her with the excessive wasting of narcotics and had
22 respondent submit to a urine test. The test was positive for Opiates.

23 b. On or about July 27, 2004, respondent self-referred to the Board’s
24 Diversion Program. On March 14 and 24, 2005, respondent tested positive for Opiates. While in
25 the Diversion Program, respondent admitted that beginning in March 2004, she began self-
26 injecting Dilaudid for pain management. Respondent further admitted that she did not advise her
27 dentist of her addiction before being prescribed Vicodin after root canal treatment.

28 c. On May 17, 2005, August 9, 2005, and January 23, 2006, respondent

1 tested positive for alcohol. Respondent denied drinking any alcohol and asserted that two of the
2 alcohol-positive test results were based on food she ingested before being tested: one was
3 chocolate candy that had a liqueur in it and the other was white wine in Chinese food. On March
4 30, 2006, respondent was terminated from the Diversion Program as a threat to public safety.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Possession of Controlled Substances)**

7 14. Respondent is subject to disciplinary action under Sections 2761,
8 subdivision (a), and 2762, subdivision (a), in that she illegally obtained and possessed narcotics.
9 The circumstances are described above in paragraph 13 and incorporated herein by reference as
10 though re-alleged in full.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Violation of Nursing Practice Act)**

13 15. Respondent is subject to disciplinary action under Sections 2750 and 2761,
14 subdivision (d), in that respondent violated the provisions or terms of the Nursing Practice Act,
15 or regulations adopted pursuant to the Act, as described more fully in paragraph 13 above and
16 incorporated herein by reference as though re-alleged in full.

17 **AGGRAVATING FACTORS**

18 16. In July 2004 respondent self-referred to the Board's Diversion Program
19 following a complaint from Redlands Community Hospital for her diversion or excessive
20 wasting of narcotics. On or about March 30, 2006, the Diversion Evaluation Committee
21 terminated respondent from the program for reasons other than successful completion of the
22 program. Respondent was terminated for being a public safety risk. Respondent was non-
23 compliant with the program in that she had two urine samples that tested positive for opiates and
24 three that tested positive for alcohol.

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1 **PRAYER**


2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 545333, issued
5 to Jennifer Ann Rouchleau aka Jennifer Ann Miller Jennifer Ann Rouchleau.

6 2. Ordering Jennifer Ann Rouchleau to pay the Board the reasonable costs of
7 the investigation and enforcement of this case, pursuant to Business and Professions Code
8 section 125.3; and

9 3. Taking such other and further action as deemed necessary and proper.
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11 DATED: 7/1/08

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13 
14 RUTH ANN TERRY, M.P.H, R.N.
15 Executive Officer
16 Board of Registered Nursing
17 State of California
18 Complainant

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